

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1(b)

FEIN, SUCH, KAHN & SHEPARD, P.C.

Counsellors at Law
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Attorneys for Secured Creditor
PNC BANK, NATIONAL ASSOCIATION
JILL A. MANZO, ESQ.
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bankruptcy@feinsuch.com

In Re:

CARMEN L. CONSTANTINOPLÉ, JR. and
DONNA M. CONSTANTINOPLÉ

Debtor(s).

Case No.: 19-24822 CMG

Adv. No.:

Chapter: 13

Hearing Date: March 3, 2021

Judge: Honorable Christine M.
Gravelle

**OBJECTION OF PNC BANK, NATIONAL
ASSOCIATION TO CONFIRMATION OF
DEBTORS' MODIFIED PLAN**

I, JILL A. MANZO, ESQ. , do hereby certify as follows:

1. I am an attorney at law of the State of New Jersey associated with the law firm of FEIN, SUCH, KAHN & SHEPARD, PC, attorneys for **PNC BANK, NATIONAL ASSOCIATION**, ("Secured Creditor" herein), and I am fully familiar with the facts and circumstances of the within matter.

2. Secured Creditor objects to confirmation of Debtors' modified plan for the reasons which follow:

(a) Secured Creditor holds a mortgage on Debtors' residence which is located at 23 POMONA DR, BARNEGAT, NJ 08005. As

of the date of the bankruptcy filing, Debtors were in default on the terms of the Note and Mortgage. Total arrears due to Secured Creditor through the plan are \$12,390.03 and total claim due in the amount of \$86,660.33 at the time of filing. A copy of the Proof of Claim is on file with the Court.

(b) Part 4(a) of the Debtor's proposed Plan provides for payment of arrears of \$11,013.36 to the Secured Creditor. Debtor's proposed plan is insufficient in that it understates the amount of Secured Creditor's arrears that are required to be cured through the Plan. Absent a modification by the Debtor to include the correct amount of arrears, this plan can not be confirmed.

(c) Furthermore, Secured Creditor objects to Debtors' confirmation in that if the Debtors are post-petition delinquent at confirmation and Debtors' case is dismissed then any excess funds that the Chapter 13 Trustee is holding should be released to the Secured Creditor. Absent the release of such excess funds in the possession of the Trustee, Secured Creditor is substantially harmed as the Debtors have enjoyed the benefit of the automatic stay to the detriment of Secured Creditor. Absent such language in the Order of Confirmation, confirmation of Debtors' modified plan must be denied.

3. For the reasons stated above, and for any others that the Court deems fit to adopt, Secured Creditor respectfully objects to Debtors' modified plan and confirmation thereof.

I hereby certify that the foregoing statements made by me are

true. I am aware that if any of the foregoing statements made by me are wilfully false, I am subject to punishment.

FEIN, SUCH, KAHN & SHEPARD, PC.
Attorneys for the Secured
Creditor,

By: /S/JILL A. MANZO, ESQ.

DATED: February 9, 2021

cc: BRIAN S. THOMAS, ESQ. - DEBTOR(S)' ATTORNEY
ALBERT RUSSO, ESQ. - TRUSTEE

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CERTIFICATION OF SERVICE

1. I, Ruth Essington:

☐ represent the _____ in this matter.

☒ am the secretary/paralegal for FEIN, SUCH, KAHN & SHEPARD, P.C.,
who represents the Secured Creditor, PNC BANK, NATIONAL
ASSOCIATION in this matter.

☐ am the _____ in the above case and am
representing myself.

2. On February 10, 2021, This office caused to be mailed a copy of
the following pleadings and/or documents to the parties listed in
the chart below:

a. Objection to Confirmation of Modified Plan

Name and Address of Party Served	Relationship of Party to the Case	Mode of Service
BRIAN S. THOMAS BRIAN S. THOMAS, ESQ. 327 CENTRAL AVENUE SUITE 103 LINWOOD, NJ 08221	Debtor(s)' Attorney	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input checked="" type="checkbox"/> Other: <u>Notice of Electronic Filing</u> (D.N.J. LBR 5005-1)
ALBERT RUSSO STANDING CHAPTER 13 TRUSTEE CN 4853 TRENTON, NJ 08650	Trustee in Bankruptcy	<input type="checkbox"/> Hand-delivered <input type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input checked="" type="checkbox"/> Other: <u>Notice of Electronic Filing</u> (D.N.J. LBR 5005-1)
U.S. TRUSTEE US DEPT OF JUSTICE OFFICE OF THE US TRUSTEE ONE NEWARK CENTER STE 2100 NEWARK, NJ 07102	U.S. Trustee	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input checked="" type="checkbox"/> Other: <u>Notice of Electronic Filing</u> (D.N.J. LBR 5005-1)
CARMEN L. CONSTANTINOPLE, JR. and DONNA M. CONSTANTINOPLE 23 PONONA DRIVE BARNEGAT, NJ 08005	Debtor(s)	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> Other: <u>Notice of Electronic Filing</u> (D.N.J. LBR 5005-1)

3. I hereby certify under penalty of perjury that the above documents were sent using the mode of service indicated.

Dated: 02/10/21

/s/Ruth Essington

Paralegal